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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,392	06/23/2003	Jens Nielsen	2000DE462	1693

25255 7590 08/10/2006

CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE, NC 28205

EXAMINER

LAMM, MARINA

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/602,392	NIELSEN ET AL.	
	Examiner	Art Unit	
	Marina Lamm	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgment is made of the amendment and Declaration filed 5/30/06.

Claims pending are 1 and 3-20. Claim 2 has been cancelled. Claims 1, 4, 10 and 17 have been amended.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The rejection of Claims 1-6, 8-11, 13-16 and 17 under 35 U.S.C. 103(a) as being unpatentable over Loffler (US 2001/0005737 or 6,489,395) is maintained for the reasons of the record.
3. The rejection of Claims 7, 12 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Loffler (US 2001/0005737 or 6,489,395) in view of Röckl et al. (US 5,690,919) is maintained for the reasons of the record.

Response to Amendment

4. The declaration under 37 CFR 1.132 filed 5/30/06 is insufficient to overcome the rejection of claims 1 and 3-20 based upon Loffler as set forth in the last Office action because: the reference teaches cosmetic emulsions compositions containing 0.6-0.7% of ammonium acryloyldimethyltaurine/vinylpyrrolidone copolymer (Aristoflex AVC). Therefore, the Applicant's comparative example, which does not contain the polymer cannot be considered "the closest prior art".

Response to Arguments

5. Applicant's arguments filed 5/30/06 have been fully considered but they are not persuasive.

In response to the Applicant's arguments, it is noted that Loffler teaches cosmetic emulsions which may be of o/w or w/o type, comprising 5-95% of oil phase, 25-85% of water phase, 0.6-0.7% of ammonium acryloyldimethyltaurine/vinylpyrrolidone copolymer (Aristoflex AVC) and 0.1-5% of oligoester emulsifier as claimed herein. While Loffler does not explicitly teach w/o emulsions containing acryloyldimethyltaurine/vinylpyrrolidone copolymer of the instant claims, the reference teaches that the emulsions may be either of o/w or w/o types as discussed above. Therefore, it would have been *prima facie* obvious to one having ordinary skill in the art at the time the invention was made to produce emulsions of Loffler in w/o form. One having ordinary skill in the art would have been motivated to do this to obtain yet another cosmetic formulation as explicitly suggested by Loffler.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (571) 272-0618. The examiner can normally be reached on Mon-Fri from 11am to 7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, can be reached at (571) 272-0629.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marina Lamm, M.S., J.D.
Patent Examiner
8/4/06


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER